
REMARKS

The Office Action of February 14, 2003 is acknowledged. Claims 1, 10, and 21-28 stand rejected. Claims 2-8 and 13-15 have been allowed, and claims 11, 12, 29 and 30 have been objected to.

Claim Rejections 35 U.S.C. § 112

Claims 1 and 21-26 were rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way to easily convey the information to one skilled in the art. Specifically, it was asserted that the disclosure does not support the limitation in claim 1 of "a slot that has a width that is smaller than the swivel part". Applicant notes that the quote in the Office Action is different than the wording in claim 1, which reads "the slot having a varying width and being wider than the swivel part where the swivel part is fitted into the slot and narrower than the swivel part where the swivel part engages the catch part."

Applicant respectfully traverses the rejection to claim 1 as the Application contains ample support for this limitation. In paragraph [0026] on page 3, lines 22-24, it is stated that "[a] slot 38 is formed in one of the catch part side walls 32 and extends into arcuate portion 36 of the retainer." In Figures 2, 8, and 9, it is clear that the slot has different widths and that the bottom portion of the slot in side wall 32 of catch part 28 is wider than the slot is at the top of the side wall and in arcuate portion 36 of retainer 34. Furthermore, the specification states that the "attached monitor can be picked up by one individual and moved over barrel [swivel part] 40 by having the barrel 40 fitted through slot 38 in catch part side wall 32 and retainer 34 with the barrel seating upwardly into the arcuate portion 36 of the retainer where it is nested." (Paragraph [0029], page 4, lines 16-19). As the barrel/swivel part fits through the slot in the side wall, it is clear to one skilled in the art that the slot is wider than the barrel in this area, and as the barrel is seated into the arcuate portion as shown in Figures 3 and 4, it is clear that the slot 38 in arcuate portion 36 is narrower than the barrel/swivel part.

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It was also asserted that the disclosure does not support the limitation in claim 21 of "one of either the barrel-shaped swivel part or catch part being connected to the support and the other connected to the appliance." Applicant also respectfully traverses this rejection as the disclosure clearly supports the limitation. As best shown in Figures 2, 15 and 16, in one embodiment the barrel-shaped swivel part 40 is connected to the support 54 or 64 for supporting the appliance from a ceiling or wall, and the catch part 28 is connected to the appliance 26 by means of the support frame 12. The specification also details an alternate embodiment wherein the swivel part and catch part are reversed. In paragraph [0033], the specification states "the barrel may be attached to the support frame 12 and catch part 28 attached to the vertical stanchion 54." (Page 6, lines 7-10). In addition, the embodiment shown in Figures 6 and 7 also has the swivel part and catch part reversed from the embodiment of Figures 1-5, and 8-16. The specification provides that "frame 12'...which supports the monitor includes a top 18' having an upwardly extending stanchion 84. Attached to the top of stanchion 84 is barrel 40 having its key 50 projecting outwardly" (Paragraph [0031], page 5, lines 15-18), and "[i]n this embodiment, cup part 44 is attached by bolt 42 and nut 48 to catch part 28" (Paragraph [0031], page 5, lines 13-14). As shown in Figure 6, cup 44 is connected to the support 54 for supporting the appliance from a ceiling or wall.

Claim Rejections Under 35 U.S.C. § 103

Claims 1 and 10 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,400,993 to *Hamilton*. Regarding claim 1, the Examiner asserted that it would be an obvious matter of design choice to have a slot of varying width since the width of the slot depends on the size of the swivel part. Applicant respectfully traverses this rejection. First, the claim requires more than just a slot of varying width. As stated above, claim 1 actually requires that "the slot having a varying width and being wider than the swivel part where the swivel part is fitted into the slot and narrower than the swivel part where the swivel part engages the catch part." There is no reason why one skilled in

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the art would modify the slot 112a (as identified by the Examiner in the Office Action of December 5, 2001) disclosed by *Hamilton* to have a varying width that is wider at one point than another and that has a portion that is narrower than the swivel part.

The slot in *Hamilton* is sized to accommodate swivel part 108a, which has a uniform width, and the fastening pin 110 provides the support between the swivel part and the catchpart 112. Therefore, there is no reason to make a portion of the slot narrower than the swivel part, and regardless of the size of the swivel part 108a, the slot 112a in *Hamilton* would be of an according uniform width and not be wider at one point than another. Only Applicant's design provides a reason and motivation, for providing a slot of varying width and having a portion that is narrower than the swivel part to provide a seating area for the swivel part adjacent where the slot is narrower (Paragraph [0029], page 4, lines 16-19 and Figures 3 and 4). As such, the Examiner has engaged in the use of impermissible hindsight based only on Applicant's disclosure. As expressed by the U.S. Supreme Court, there is a need "to guard against slipping into hindsight." *Graham v. John Deere Co.*, 383 U.S. 1, 36, 148 USPQ 459, 474 (1965). Should the Examiner disagree with Applicant's remarks, Applicant requests that the Examiner provide specific teachings and motivation in the reference and show where the prior art reference teaches or suggests the claim limitations as required by M.P.E.P. 2143.

The Examiner also asserted that the slot being smaller than the swivel part has no patentable significance. The slot being wider at one point than another is significant in that Applicant's configuration facilitates that the "frame 12 and attached monitor can be picked up by one individual and moved over barrel 40 by having the barrel 40 fitted through slot 38 and catch part side wall 32 and retainer 34 with the barrel seating upwardly into the arcuate portion 36 of the retainer where it is nested. In this manner, a single individual can mount and support the frame with its monitor." (Paragraph [0029], page 4, lines 16-20). In other words, the configuration of Applicant's invention allows the appliance to be hung by merely moving it into position without the need to make any connections. On the other hand, the design in *Hamilton* would require somehow

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supporting the arm assembly 112 in alignment with swivel part 108, and while so aligned and supported, the fastening pin 110 would have to be connected to the arm assembly 112 and the swivel part 108a to support the appliance.

Applicant also traverses the rejection to claim 10. The Examiner asserted it would be an obvious matter of design choice to make the swivel part to be barrel in shape, since Applicant has not disclosed that the barrel shape solves any stated problem or is for any particular purpose. Applicant again believes that the Examiner has engaged in the use of impermissible hindsight. *Hamilton* does not disclose, teach, or provide any motivation why one skilled in the art would make a barrel shaped swivel part. Furthermore, Applicant notes that the barrel part in its invention rotates in a seat (arcuate portion 36 in embodiments of Figures 1-5, and 8-16, and on bottom wall 86 in the embodiment of Figures 6-7) for the purpose of providing the tilting movement of the appliance. As the swivel part 108a in *Hamilton* does not rotate in a seat, there is no reason, teaching or motivation why one skilled in the art would choose a barrel shape for swivel part 108a. Should the Examiner disagree, Applicant requests that the Examiner provide specific teachings and motivation in the reference and show where the prior art reference teaches or suggests the claim limitations as required by M.P.E.P. 2143.

Claim Rejection Under 35 U.S.C. § 102

Claim 27 is rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,915,658 to *Sheng*. Applicant has amended claim 27 to require that the catch part is rotationally fixed relative to the frame. In the Applicant's invention, catch part 28 is bolted to support frame 12 and does not rotate relative thereto; however, in *Sheng* catch part 21 rotates relative to the frame when the frame is tilted about the vertical axis as shown in Figures 3 and 4.

Claim 28 has been amended to coincide with the amendments to claim 27.

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Reply to Office Action of February 14 2003

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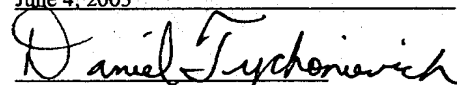
An earnest attempt has been made to respond fully and completely to the Office Action of February 14, 2003. Applicant notes that certain claims have been amended solely to advance prosecution of this Application and to obtain allowance on the allowable claims at the earliest possible date. As such, no admission may be inferred by the amendments herein. It is believed that all remaining claims 1-8, 10-15 and 21-31 are in condition for allowance. Accordingly, passage to issuance is respectfully solicited. The Examiner is invited to contact the undersigned with any questions or comments. If necessary to affect a timely response, please consider this paper a petition for extension of time sufficient to make this response timely and charge any fees not covered by the attached check or credit any overpayment to Baker & Daniels Deposit Account 02-0387 (75255.77).

Respectfully submitted,



Daniel Tychonievich
Registration No. 41,358
Attorney for Applicant
BAKER & DANIELS
205 West Jefferson Blvd., Suite 250
South Bend, IN 46601
Tel: (574)234-4149
Fax: (574)239-1900

Enclosure: Postcard

<p>I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on</p> <p><u>June 4, 2003</u></p>  <p>Daniel Tychonievich, Reg. No. 41,358</p>
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